

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room      5A**

9:00 AM

**8:00-00000**

**Chapter**

**#0.00      All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.**

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

**Meeting URL:    <https://cacb.zoomgov.com/j/1606903402>**

**Meeting ID:      160 690 3402**

**Password:        325290**

**Telephone conference lines:      1 (669) 254 5252 or 1 (646) 828 7666**

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:00 AM

**CONT...**

**Chapter**

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket      0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12113 Djulianto Irwantio and Davis Gunawan**

**Chapter 7**

**#1.00** Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2021 Lexus NX 300 - Amount: \$35,323.99)  
**[SC CASE]**

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Djulianto Irwantio

Represented By  
Leonardo Drubach

**Joint Debtor(s):**

Davis Gunawan

Represented By  
Leonardo Drubach

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12145 Robert Hernandez**

**Chapter 7**

**#2.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Ally Bank  
(RE: 2018 Nissan Titan Crew Cab SV 2WD - Amount: \$36,061.69)

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Robert Hernandez

Represented By  
Marlin Branstetter

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12242 Samuel Scott Rose**

**Chapter 7**

**#3.00** Hearing RE: Reaffirmation Agreement Between Debtor and FLAGSHIP  
CREDIT ACCEPTANCE (RE: 15 BMW 4 Series - Amount: \$15,698.17)

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Samuel Scott Rose

Represented By  
Daniel King

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12256 Rosa Eva Sanchez**

**Chapter 7**

**#4.00** Hearing RE: Reaffirmation Agreement Between Debtor and Nissan Motor  
Acceptance Corporation (RE: 2017 Nissan Maxima - \$9,758.79)

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Rosa Eva Sanchez

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12450 Bladimiro Garcia Rodriguez**

**Chapter 7**

**#5.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Ford Motor Credit Company LLC (2020 Ford Fusion - \$226,868.46) **[TA CASE]**

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Bladimiro Garcia Rodriguez

Represented By  
Lauren M Foley

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room      5A**

9:30 AM

**8:21-12527    Louis Kevin Armenta**

**Chapter 7**

**#6.00    Hearing RE: Pro Se Reaffirmation Agreement Between Debtor And Financial Partners Credit Union [RE: 2016 BMW 3 Series - \$16,877.66] [TA CASE]**

Docket      9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Louis Kevin Armenta

Represented By  
Arlene M Tokarz

**Trustee(s):**

Weneta M.A. Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room      5A**

9:30 AM

**8:21-12552    Richard Ramirez and Martha Zuniga**

**Chapter 7**

**#7.00    Hearing RE: Pro se Reaffirmation Agreement Between Debtor and SchoolsFirst  
Federal Credit Union (RE: 2018 Toyota Tacoma Double Cab - Amount:  
\$23,900.41)**

Docket      28

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Richard Ramirez

Represented By  
Don Dao

**Joint Debtor(s):**

Martha Zuniga

Represented By  
Don Dao

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12552 Richard Ramirez and Martha Zuniga**

**Chapter 7**

**#8.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and SchoolsFirst  
Federal Credit Union (RE: 2018 Dodge Challenger - Amount: \$25,832.92)

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Richard Ramirez

Represented By  
Don Dao

**Joint Debtor(s):**

Martha Zuniga

Represented By  
Don Dao

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12692 Paola Valadez**

**Chapter 7**

**#9.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2019 Toyota C-HR - \$26,908.18)

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Paola Valadez

Represented By  
Barry E Borowitz  
Michael E Clark

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room      5A**

9:30 AM

**8:21-12757    Mohammad Khalid**

**Chapter 7**

**#10.00    Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation [2017 Toyota Prius - \$7,206.28] - [TA-CASE]**

Docket      20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Mohammad Khalid

Represented By  
Don Dao

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

9:30 AM

**8:21-12760 Rebecca Ann Calvitti-Brandon**

**Chapter 7**

**#11.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Nissan Motor Acceptance Corporation (RE: 2018 Nissan Sentra - \$12,038.09) **[TA CASE]**

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Rebecca Ann Calvitti-Brandon

Represented By  
Bert Briones

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

11:00 AM

**8:21-10635 Alicia Marie Richards**

**Chapter 7**

**#12.00** Hearing RE: Motion for Order Establishing Procedures for United States Marshal Service to Enforce Amended Turnover Order **(OST Entered 1/5/2022)**

Docket 477

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 19, 2022**

To the extent Trustee is requesting the issuance of an amended enforcement writ signed by the Clerk of the Court, such request is granted. To the extent Trustee is seeking an order of the Court regarding the issuance of an amended writ, such request is denied due to lack of jurisdiction and the court will grant the alternative request for the issuance of an Indicative Ruling pursuant to Federal Rules of Bankruptcy Procedure 8008(a)(3).

Basis for Tentative Ruling:

I. Lack of Jurisdiction to Amend, Alter, or Expand the Amended Turnover Order

Substantively, by the Motion Trustee is requesting that the Court modify its November 30, 2021 Amended Turnover Order ("Amended Order") to add additional language requested by the US Marshal. As the Amended Order is presently on appeal before the Bankruptcy Appellate Panel ("BAP"), the Court is divested of jurisdiction to modify or amend the Amended Order. In *In re Padilla*, 222 F.3d 1184, 1190 (9th Cir. 2000), the Ninth Circuit held:

"The timely filing of a notice of appeal to either a district court or bankruptcy appellate panel will typically divest a bankruptcy court of jurisdiction "over those aspects of the case involved in the appeal." See *Padilla*, 222 F.3d at 1190; 10 COLLIER ON BANKRUPTCY P 8001.04 (15th

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

11:00 AM

**CONT...**

**Alicia Marie Richards**

**Chapter 7**

ed. 2006). The bankruptcy court *retains jurisdiction over all other matters that it must undertake "to implement or enforce the judgment or order,"* although it *"may not alter or expand upon the judgment."* . (emphasis added)

See also, *Hagel v. Drummond (In re Hagel)*, 184 B.R. 793, 798 (B.A.P. 9th Cir. 1995) .

The Court concludes that the relief requested by the US Marshal for an *order signed by the Court* is essentially a request to modify, amend, or expand on the Amended Order, which the court lacks jurisdiction to do in light of the pending appeal of the same.

**II. Issuance of Indicative Ruling Pursuant to Fed.R.Bankr.P. 8008(a)(3)**

Federal Rules of Bankruptcy Procedure 8008)(a)(3) provides that

"If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the bankruptcy court may: (1) defer considering the motion; (2) deny the motion; or (3) state that the court would grant the motion if the court where the appeal is pending remands for that purpose, or state that the motion raises a substantial issue."

The proper procedure is for the movant to seek an indicative ruling from the bankruptcy court first. See, e.g., *Paravue Corp. v. In re Heller Ehrman LLP*, 2015 WL 993406 (N.D. Cal. March 4, 2015); *In re Gutierrez*, 2019 WL 406632 (BAP. 2019).

The Court believes the issuance of an Indicative Ruling under FRBP 8008(a)(3) is appropriate for the following reasons:

1. As noted above, the relief requested regarding the issuance of a new order providing for the issuance of an amended writ necessarily requires a modification or expansion of the Amended Order.
2. Absent the pending appeal, the Court would grant the Motion and further amend the Amended Order to provide the language required by the US

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room 5A**

11:00 AM

**CONT...**      **Alicia Marie Richards**      **Chapter 7**

Marshal (which language the Court views as non-substantive and technical in nature).

3. Debtor was unequivocally ordered to turnover possession of the subject property by December 4, 2021 and she has failed to do so.

4. The request for a stay of the Amended Order was denied both by this Court and by the BAP.

5. The Court's ruling directing the turnover of the subject property by December 4, 2021 (as set forth in the Amended Order) is not contingent on the close of escrow and this Court is not bound by any prepetition state court order to the contrary.

6. The Motion raises substantial issues as to 1) the ability of Trustee to enforce the Amended Order due to certain technical requirements of the US Marshal for enforcement of the unstayed Amended Order; 2) the liability of Trustee vis a vis the court-approved sale of the subject property.

**III. The Issuance of an Amended Writ**

To the extent that US Marshal is willing to enforce an amended writ of enforcement *without* an order of the Court, Trustee is free to pursue that as *enforcement* of an unstayed order on appeal is permissible. However, as the Court understands the Motion, the US Marshal is not willing to rely on amended writ without a further order of the Court.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Alicia Marie Richards

Pro Se

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Richard G Heston  
D Edward Hays



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, January 19, 2022**

**Hearing Room**

**5A**

11:00 AM

**CONT...**

**Alicia Marie Richards**

Tinho Mang

**Chapter 7**